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3-15-1990

# Trial By Jury, Instructions.

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Office of the Secretary of State  
March Fong Eu

1230 J Street  
Sacramento, California 95814

ELECTIONS DIVISION  
(916) 445-0820

For Hearing and Speech Impaired  
Only:  
(800) 833-8683

August 27, 1990

TO: ALL COUNTY CLERKS/REGISTRARS OF VOTERS AND PROPONENTS  
(90173)

FROM:

*Caren Daniels-Meade*  
CAREN DANIELS-MEADE  
Chief, Elections Division

Pursuant to Elections Code section 3520(b) you are hereby notified that the total number of signatures to the hereinafter named proposed INITIATIVE CONSTITUTIONAL AMENDMENT filed with all county officials is less than 100 percent of the number of qualified voters required to find the petition sufficient; therefore, the petition has failed.

TITLE: TRIAL BY JURY, INSTRUCTIONS.  
INITIATIVE CONSTITUTIONAL AMENDMENT.

SUMMARY DATE: March 15, 1990

PROPONENTS: Marion McEwen  
Wayne Nygren

CDM/bl/cb



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#519

March 15, 1990

**TO ALL REGISTRARS OF VOTERS, OR COUNTY CLERKS, AND PROPONENTS (90057)**

Pursuant to Section 3513 of the Elections Code, we transmit herewith a copy of the Title and Summary prepared by the Attorney General on a proposed Initiative Measure entitled:

**TRIAL BY JURY, INSTRUCTIONS.  
INITIATIVE CONSTITUTIONAL AMENDMENT.**

**Circulating and Filing Schedule**

1. Minimum number of signatures required.....595,485  
Cal. Const., Art. II, Sec. 8(b).
2. Official Summary Date.....Thursday, 03/15/90  
Elec. C., Sec. 3513.
3. Petition Sections:
  - a. First day Proponent can circulate Sections for  
signatures.....Thursday, 03/15/90  
Elec. C., Sec. 3513.
  - b. Last day Proponent can circulate and file with  
the county. All sections are to be filed at  
the same time within each  
county.....Monday, 08/13/90\* +  
Elec. C., Secs. 3513, 3520(a)
  - c. Last day for county to determine total number of  
signatures affixed to petition and to transmit total  
to the Secretary of State  
.....Monday, 08/20/90

(If the Proponents file the petition with the county on a date prior to 08/13/90, the county has five working days from the filing of the petition to determine the total number of signatures affixed to the petition and to transmit the total to the Secretary of State.) Elec. C., Sec. 3520(b).

\* Date adjusted for official deadline which falls on Sunday. Elec. C., Sec. 60.

+ NOTE TO PROPONENTS WHO WISH TO QUALIFY FOR THE NOVEMBER 6, 1990 GENERAL ELECTION: The law allows approximately 107 days for county election officials to check and report petition signatures and transmit results. The law also requires that this process be completed 131 days before the election in which the people will vote on the initiative. It is possible that the county may not need precisely 107 days. However, if you want to be sure that this initiative qualifies for the November 6, 1990 General Election, you should file this petition with the county before March 23, 1990.



- d. Secretary of State determines whether the total number of signatures filed with all county clerks meets the minimum number of required signatures, and notifies the counties  
.....Wednesday, 08/29/90\*\*
- e. Last day for county to determine total number of qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State  
.....Friday, 09/21/90
- (If the Secretary of State notifies the county to determine the number of qualified voters who signed the petition on a date other than 08/20/90, the last day is no later than the fifteenth day after the county's receipt of notification.)  
Elec. C., Sec. 3520(d), (e).
- f. If the signature count is more than 655,033 or less than 565,711, then the Secretary of State certifies the petition has qualified or failed, and notifies the counties. If the signature count is between 565,711 and 655,033 inclusive, then the Secretary of State notifies the counties using the random sampling technique to determine the validity of all signatures  
.....Monday, 10/01/90\*\*
- g. Last day for county to determine actual number of all qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State  
.....Wednesday, 11/14/90
- (If the Secretary of State notifies the county to determine the number of qualified voters who have signed the petition on a date other than 09/21/90, the last day is no later than the thirtieth working day after county's receipt of notification.)  
Elec. C., Sec. 3521(b), (c).
- h. Secretary of State certifies whether the petition has been signed by the number of qualified voters required to declare the petition sufficient  
.....Sunday, 11/18/90

\*\*Date varies based on receipt of county certification.

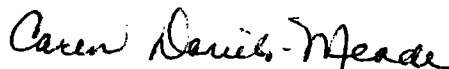
4. The Proponents of the above-named measure are:

Marion McEwen  
Wayne Nygren  
FIJA California  
24828 Canyon View Court  
Hayward, CA 94541

5. Important Points:

- (a) California law prohibits the use of signatures, names and addresses gathered on initiative petitions for any purpose other than to qualify the initiative measure for the ballot. This means that the petitions cannot be used to create or add to mailing lists or similar lists for any purpose, including fund raising or requests for support. Any such misuse constitutes a crime under California law. Elections Code section 29770; *Bilofsky v. Deukmejian* (1981) 123 Cal.App. 3d 825, 177 Cal.Rptr. 621; 63 Ops. Cal.Atty.Gen. 37 (1980).
- (b) Please refer to Elections Code sections 44, 3501, 3507, 3508, 3517, and 3519 for appropriate format and type consideration in printing, typing, and otherwise preparing your initiative petition for circulation and signatures. Please send a copy of the petition after you have it printed. This copy is not for our review or approval, but to supplement our file.
- (c) Your attention is directed to the campaign disclosure requirements of the Political Reform Act of 1974, Government Code section 81000 et seq.
- (d) When writing or calling state or county elections officials, provide the official title of the initiative which was prepared by the Attorney General. Use of this title will assist elections officials in referencing the proper file.
- (e) When a petition is presented to the county elections official for filing by someone other than the proponent, the required authorization shall include the name or names of the persons filing the petition.
- (f) When filing the petition with the county elections official, please provide a blank petition for elections official use.

Sincerely,



CAREN DANIELS-MEADE  
Chief, Elections Division

Attachment: POLITICAL REFORM ACT OF 1974 REQUIREMENTS

Date: March 15, 1990  
File No.: SA 90 RF 0008

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

**TRIAL BY JURY, INSTRUCTIONS. INITIATIVE CONSTITUTIONAL**

**AMENDMENT.** Provides that the jury in civil suits and criminal prosecutions has the responsibility to determine the facts, the right to judge the applicable law and the right to consider the defendant's motives. Requires judge to give specific instruction to jury regarding their duties, including instruction that if they find the law to be unjust or wrongly applied, jury is to vote according to conscience, regardless of facts of case.

Also provides no potential juror can be excused or disqualified because of expression of willingness to exercise rights or vote according to conscience. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: Unknown.

JOHN K. VAN DE KAMP  
Attorney General

State of California  
DEPARTMENT OF JUSTICE



1515 K STREET, SUITE 511  
P.O. BOX 944255  
SACRAMENTO 94244-2550  
(916) 445-9555

March 15, 1990

(916) 324-5508

Honorable March Fong Eu  
Secretary of State  
1230 J Street  
Sacramento, CA 95814

**FILED**  
In the office of the Secretary of State  
of the State of California

MAR 15 1990

MARCH FONG EU, Secretary of State

By  Deputy

Dear Mrs. Eu:

Initiative Title and Summary

Subject: TRIAL BY JURY, INSTRUCTIONS.  
INITIATIVE CONSTITUTIONAL AMENDMENT.

Our File No.: SA 90 RF 0008

Pursuant to the provisions of sections 3503 and 3513 of the Elections Code, you are hereby notified that on this day we mailed to the proponents of the above-identified proposed initiative our title and summary.

Enclosed is a copy of our transmittal letter to the proponents, a copy of our title and summary, a declaration of mailing thereof, and a copy of the proposed measure.

According to information available in our records, the name and address of the proponents is as stated on the declaration of mailing.

Very truly yours,

JOHN K. VAN DE KAMP  
Attorney General

  
MARY WHITCOMB  
Initiative Coordinator

MW:jlh

Enclosures

BE IT ENACTED BY THE PEOPLE OF THE STATE OF CALIFORNIA:

Article I of The Constitution of the State of California is amended by adding a new section 29 that reads:

"Section 29. Jury rights and responsibilities-- instructions -- oath. (1) In all civil suits and criminal prosecutions, the jury has the responsibility to determine the facts, the right to judge the applicable law and the right to consider the motives of the defendant.

(2) Before any civil or criminal case is heard by a jury and again prior to jury deliberation, the court, shall inform the jurors orally and in writing of the responsibility and rights specified in subsection (1), in the following words: "If you determine that the defendant broke the law or is liable according to the law, before reaching a verdict you may judge the law itself and consider the motives of the defendant. If you find the law itself to be unjust or wrongly applied to the defendant, each of you may exercise the traditional right of jurors to vote according to conscience, regardless of the facts of the case." The court may in no way contradict or modify this instruction.

(3) The jurors' oath shall affirm their responsibility to determine the facts, their right to judge the law and their right to consider the motives of the defendant. No potential juror may be excused or disqualified from serving on a jury because he expresses a willingness to exercise these rights or to vote according to conscience."



SA90RF0008

January 23, 1990

RECEIVED  
JAN 25 1990

John Van de Kamp  
Attorney General  
1515 K Street, Suite 511  
Sacramento, CA 95814

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

Dear Attorney General:

On behalf of the FIJA California Organization we are submitting the enclosed wording for an amendment to the Constitution of the State of California. We have used "section 29" as our information is that "section 28" is the last section in Article I to date. If that section number, 29, is incorrect this is our authorization for amending the wording to reflect the correct number.

We request a title and summery of the proposed text, and have enclosed a check in the sum of \$ 200.00. As the proposed text is short, would it stand as the summery? If this is not possible, we have been requested by the FIJA National Organization to ask that the summery be simple and clear.

We would hope to have this amendment before the voters at the November 1990 election. Thank you for your help and consideration.

Toward Liberty,

Marion McEwen

signed Marion McEwen Jan. 23, 1990

Wayne Nygren

signed W. Nygren 23 Jan 1990

Sponsors

FIJA California

24828 Canyon View Ct.

Hayward, CA 94541

cc Don Doig

FIJA National Coordinator

P.O.Box 60

Helmville, MT. 59843

## DECLARATION OF MAILING

The undersigned Declarant states as follows:

I am over the age of 18 years and not a proponent of the within matter; my place of employment and business address is 1515 K Street, Suite 511, Sacramento, California 95814.

On the date shown below, I mailed a copy or copies of the attached letter to the proponent, by placing a true copy thereof in an envelope addressed to the proponent named below at the address indicated, and by sealing and depositing said envelope or envelopes in the United States mail at Sacramento, California, with postage prepaid. There is delivery service by United States mail at each of the places so addressed, or there is regular communication by mail between the place of mailing and each of the places so addressed.

Date of Mailing: March 15, 1990

Subject: TRIAL BY JURY, INSTRUCTIONS.  
INITIATIVE CONSTITUTIONAL AMENDMENT.

Our File No.: SA 90 RF 0008

Name of Proponents and Address:

Marion McEwen  
Wayne Nygren  
FIJA California  
24828 Canyon View Court  
Hayward, CA 94541

I declare under penalty of perjury that the foregoing is true and correct.

Executed at Sacramento, California, on: March 15, 1990.

  
JULIE LYNN HOWARD  
Declarant

**NEWS RELEASE****from: Secretary of State March Fong Eu****1230 J Street, Sacramento, CA 95814**For Immediate Release  
March 16, 1990**Contact: Melissa Warren (916) 445-6375****TRIAL BY JURY, INSTRUCTIONS INITIATIVE ENTERS CIRCULATION REPORTS EU**

**SACRAMENTO —** California Secretary of State March Fong Eu announced today (Mar. 16) that she has given the proponents of an initiative measure relating to jury rights and responsibilities approval to begin gathering signatures.

The proposed initiative constitutional amendment is sponsored by Marion McEwen and Wayne Nygren of Hayward, telephone (415) 889-1544. They must collect 595,485 signatures of registered voters in order to place the measure on the November 1990 ballot. All signatures must be submitted to county elections officials by August 13, the legal 150-day deadline.

"Trial by Jury, Instructions," proposes to amend the state constitution to provide that the jury, in all civil suits and criminal prosecutions, has the responsibility to determine the facts, the right to judge the applicable law and the right to consider the motives of the defendant. It also proposes that the judge be required to give specific instruction to jury regarding their duties, including instruction that if they find the law to be unjust or wrongly applied, the jury is to vote according to conscience, regardless of facts of the case. Further, it would propose that no potential juror can be excused or disqualified because of expression of willingness to exercise rights or vote according to conscience.

Addition of this new measure brings the total number of initiatives in circulation to 38.

A copy of the circulation calendar and title and summary is attached. The full text of the measure can be obtained from the secretary of state's elections division, 1230 J St., Sacramento, CA 95814, (916) 445-0820.

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